IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTY FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 6443 of 2005

Between:

G. Satyanrayana, S/o. Garudachalam,
Indian Airlines, R/o. 105, Picket, Secunderabad.

..... PETITIONER

AND

1 Indian Airlines Rep by its Managing Director New Delhi
2 The Director Engineering, Indian Airlines Limited,
Headquarters, New Delhi.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of "Writ of Mandamus" declaring the action of the 2nd Respondent terminating the services of the petitioner as arbitrary, illegal and violative of Articles 14, 21 and 19(1)(g) of constitution of India and consequently direct the respondents to continue the petitioner in service until his retirement and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case

Counsel for the Petitioner: MR.L.NANDA KISHORE

Counsel for the Respondents: MR.K.SRINIVASA MURTHY

The Court at the admission stage made the following :

The Hon’ble Sri Justice

K.C. Bhanu

W.P. No. 6443 of 2005

O R D E R:

Challenging the order of the 2nd respondent in Ref.No.RPD01/W-1417 dated 21.3.2005 terminating the petitioner from service with immediate effect, the present writ petition is filed.

The brief facts that are necessary for the disposal of the present writ petition may be stated as follows:

The social status certificate of the petitioner has been cancelled by the Collector and District Magistrate vide proceedings dated 18.8.2003 basing on the findings of the scrutiny committee. Challenging the same, the petitioner filed W.P.20763 of 2003 and filed WPMP seeking for suspension of the order of the District Collector. Interim order was granted as prayed for by order dated 25.9.2003. While so, the impugned orders have been passed on 21.3.2005 on the ground that the District Magistrate vide proceedings dated 18.8.2003 cancelled the social status certificate issued by the petitioner.

The respondents filed a detailed counter affidavit stating that the termination orders have been passed as a consequence of the action of the statutory authority, namely, the District Collector cancelling the caste certificate and that the respondents have acted in accordance with law. The Government informed the respondents that it had examined the stay petition and not granted the stay but the

appeal petition was taken on file and it is still pending. The petitioner has informed the respondents for the first time about filing of the writ petition and extension of stay order passed by this court only after serving of the order of termination dated 21.3.2005. Therefore, there is no violation of any constitutional statutory provisions. Hence the writ petition is devoid of merit.

Only two contentions have been raised in this writ petition by the learned counsel for the petitioner, firstly, that the impugned order is passed without application of mind and that the basis for passing the impugned order is suspended by this court and, secondly, that no notice is given before passing the impugned order. Therefore, the learned counsel for the petitioner prays to set aside the impugned order.

On the other hand, the learned counsel for the respondents contended that the respondents are not aware of the suspension granted by this court; that as per the decision of the apex court in **Madhuri Patil v. Addl. Commissioner, Tribal Development** no notice is required for termination when a social status certificate is cancelled by the competent authority and that the impugned order does not suffer from any incurable legal infirmities so as to call for interference by this court.

After advancing the arguments by the learned standing counsel for the respondents, the learned counsel for the petitioner has not pressed the point that the impugned proceedings suffers from the infirmity that no notice was given to the petitioner since he has not seriously disputed about the fact that no notice and no opportunity need be given in case the social status certificate is

cancelled by the competent authority. Therefore, it is unnecessary to resolve the said aspect. Therefore, the only contention of the learned counsel for the petitioner is that the impugned order is passed without application of mind and that the order of the District Collector is suspended by this court and consequently the impugned order is liable to be set aside.

The social status certificate of the petitioner was cancelled by the District Collector who is the competent authority vide proceedings dated 18.8.2003. It is not disputed before this court that this court in WPMP 25982 of 2003 in W.P. 20763 of 2003 dated 25.09.2003 suspended the order of the Collector and ordered notice. Therefore, the order of the District Collector dated 18.8.2003 is the subject matter to be decided in W.P. 20763 of 2003. According to the respondents, the suspension of the order of the District Collector is not brought to the notice of the respondents and therefore the order under challenge does not suffer from any legal infirmities so as to call for interference by this court. The writ petitioners ought to have brought to the notice of the respondents the suspension of the order of the District Collector dated 18.8.2003 in which case the respondents would not have terminated the services of the petitioner. The sole basis for the termination of the petitioner's services is the cancellation of the social status certificate issued by the District Collector vide proceedings dated 18.8.2003. Though the order under challenge does not suffer from any incurable legal infirmities, but at the same time it cannot be given effect to in view of the fact that a writ petition is pending with regard to the proceedings of the District Collector dated 18.8.2003. The termination of the services of the petitioner by the respondents cannot be said to be arbitrary or illegal

in view of the fact that the interim orders passed by this court have not been brought to the notice of the 2nd respondent. However, since the cancellation of the social status certificate by the District Collector has not attained its finality and by the date of issuance of the impugned proceedings the order of the District Collector is suspended, the termination orders passed by the respondents cannot be given effect because the 2nd respondent can take appropriate decision if ultimately the writ petitioner fails in the statutory appeal which is admittedly pending before the Government. Therefore, the impugned order can be set aside in view of the peculiar facts and circumstances of the case.

In the result, the writ petition is allowed setting aside the impugned proceedings. The petitioner shall be continued till the date of superannuation i.e. 31.03.2005. After retirement, he is not entitled for any retiremental benefits till the issue is resolved by the statutory appellate authority. The 2nd respondent is at liberty to take appropriate decision in accordance with law after the disposal of the appeal which is pending before the Government. No costs.

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K.C. Bhanu, J.

Date:31 --03—2005.

MVB.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 Indian Airlines Rep by its Managing Director New Delhi
2 The Director Engineering, Indian Airlines Limited,
Headquarters, New Delhi.

3 2 CD copies